

PUBLIC LAW 104-191 ~~AUG. 21, 1996~~ 110 STAT.
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"PART B ~~INDIVIDUAL MARKET RULES~~

~~"SEC. 2741. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH~~
~~42 USC SOOgg.~~
~~INSURANCE COVERAGE TO CERTAIN INDIVIDUALS WITH~~ 41-
~~PRIOR GROUP COVERAGE.~~

~~"(a) GUARANTEED AVAILABILITY.—~~

~~"(1) IN GENERAL.—~~ Subject to the succeeding subsections of this section and section 2744, each health insurance issuer that offers health insurance coverage (as defined in section 2791(b)(1)) in the individual market in a State may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in individual health insurance coverage—

~~"(A) decline to offer such coverage to, or deny enrollment of, such individual; or~~
~~"(B) impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage.~~

~~"(2) SUBSTITUTION BY STATE OF ACCEPTABLE ALTERNATIVE MECHANISM.—~~ The requirement of paragraph (1) shall not apply to health insurance coverage offered in the individual market in a State in which the State is implementing an acceptable alternative mechanism under section 2744.

~~"(b) ELIGIBLE INDIVIDUAL DEFINED.—~~ In this part, the term

~~"eligible individual"~~ means an individual ~~(1)(A)~~ for whom, as of the date on which the individual seeks coverage under this section, the aggregate of the periods of creditable coverage (as defined in section 2701(c)) is 18 or more months and (B) whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan (or health insurance coverage offered in connection with any such plan);

~~"(2) who is not eligible for coverage under (A) a health plan, (B) part A or part B of title XVIII of the Social Security Act, or (C) a State plan under title XEX of such Act (or any successor program), and does not have other health insurance coverage;~~

~~"(3) with respect to whom the most recent coverage within the coverage period described in paragraph (1)(A) was not terminated based on a factor described in paragraph (1) or~~

(2) of section 2712(b) (relating to nonpayment of premiums or fraud);

"(4) if the individual had been offered the option of continuation coverage under a COBRA continuation provision or under a similar State program, who elected such coverage; and

"(5) who, if the individual elected such continuation coverage, has exhausted such continuation coverage under such provision or program.

(c) ALTERNATIVE COVERAGE PERMITTED WHERE NO STATE MECHANISM.

"(1) IN GENERAL—In the case of health insurance coverage offered in the individual market in a State in which the State is not implementing an acceptable alternative mechanism under section 2744, the health insurance issuer may elect to limit the coverage offered under subsection (a) so long as it offers at least two different policy forms of health insurance coverage both of which—